

**NEIGHBORHOOD PRESERVATION BALANCED HOUSING  
PROGRAM RULES (N.J.A.C. 5:43-1 AND FF)**

**Adopted: September 9, 2002**

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**NEIGHBORHOOD PRESERVATION BALANCED HOUSING  
PROGRAM  
RULES (N.J.A.C. 5:43-1 AND FF)**

**5:43-1.1 PURPOSE**

The purpose of the Neighborhood Preservation Balanced Housing Program shall be to assist in the delivery of housing affordable to low and moderate income households in viable neighborhoods, in conformance with the State Development and Redevelopment Plan and in fulfillment of Section 20 of the Fair Housing Act of 1985, as amended.

**5:43-1.2 SEVERABILITY**

If any part of this chapter shall be held invalid, the holding shall not affect the validity of the remaining part of these rules. If a part of these rules is held invalid in one or more of its applications, the rules shall remain in effect in all valid applications that are severable from the invalid application.

**5:43-1.3 ELIGIBLE APPLICANTS**

- (a) Municipal governments shall be the only eligible applicants to the Neighborhood Preservation Balanced Housing Program.
- (b) Applications shall only be accepted from municipalities meeting at least one of the following criteria:
  - 1. The municipality has petitioned the Council on Affordable Housing for substantive certification; or
  - 2. The municipality has received substantive certification from the Council on Affordable Housing; or
  - 3. The municipality has entered into a judicially-approved compliance agreement to settle its fair share housing obligation; or
  - 4. The municipality is subject to a court-ordered builder's remedy; or
  - 5. The municipality has been designated as a receiving municipality under a regional contribution agreement and a project plan has been approved by the Council on Affordable Housing; or
  - 6. The municipality has, at any time since FY 1988, been eligible to receive State aid pursuant to P.L. 1978, c.14 (N.J.S.A. 52:27D-178 et seq.).
- (c) Applicants that are eligible in accordance with (b) 1 above only shall not be eligible to receive program funding until the municipality's Fair Share Plan has received substantive certification from the Council on Affordable Housing.
- (d) Applicants that are eligible in accordance with (b)4 above, shall not be eligible to receive a funding commitment or program funding until the municipality's Fair Share Plan has been judicially approved by the issuance of a judgment of repose.

#### **5:43-1.4 ELIGIBLE ACTIVITIES**

- (a) Eligible activities shall include those activities listed below:
1. Rehabilitation of substandard housing units occupied or to be occupied by low and moderate income households;
  2. Creation of accessory apartments to be occupied by low and moderate income households;
  3. Conversion of nonresidential space to residential purposes provided that more than 20 percent of the resulting housing units are to be occupied by low and moderate income households;
  4. Acquisition of real property; demolition and removal of buildings; or construction of new housing that will be occupied by low and moderate income households; or any combination thereof;
  5. Grants of assistance to eligible municipalities for costs of necessary studies, surveys, plans and permits, engineering, architectural and other technical services, cost of land acquisition and any buildings thereon, and cost of site preparation, demolition and infrastructure development for projects undertaken pursuant to an approved Regional Contribution Agreement;
  6. Assistance to a local housing authority, nonprofit or limited dividend housing corporation or association for rehabilitation or restoration of housing units which it administers which:
    - i are unusable or in a serious state of disrepair;
    - ii can be restored in an economically feasible and sound manner;
    - and
    - iii can be retained in a safe, decent and sanitary manner, upon completion of rehabilitation or restoration; and
  7. Other housing programs for low and moderate-income households including infrastructure projects directly facilitating the construction of low and moderate income
- (b) A proposed activity shall only be considered eligible if the units produced meet the criteria necessary at N.J.A.C. 5:93 to qualify for credit from the Council on Affordable Housing.
- (c) The required affordable portion of any mixed income/use development, which is located in a non-urban aid municipality shall not be eligible for Balanced Housing funding.
1. A project will be considered eligible for funding if 100 percent of the units are affordable and if the project is not identified, by sale or transfer or any other means, with an inclusionary development.
- (d) Balanced Housing funds shall not be used for the sole purpose of converting public housing to homeownership.
- (e) Balanced Housing funds shall not be used for the payment of court ordered judgments or governmentally imposed fines levied against subject properties.

## **5:14-1.5 DEFINITIONS**

The following words and terms as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

### **Adjusted Rent**

Adjusted rent means the base rent for a rental unit adjusted by the Index.

### **Affordable**

Affordable means capable of being afforded without undue burden by an eligible household. A rental unit shall be considered "affordable" if the monthly rent, including the estimated cost of utilities paid by the tenant, does not exceed 30 percent of an eligible household's income. Homeowner units shall be considered "affordable" if the monthly carrying costs, including principal and interest (based on a mortgage equal to 95 percent of the purchase price and a market rate of interest), taxes, homeowner and private mortgage insurance and condominium fees, do not exceed 28 percent of an eligible household's income. Except as modified in accordance with N.J.A.C. 5:43 3.1(h)4, in calculating the affordability of both homeowner and rental units the following occupancy is assumed: a studio is occupied by a one person household; a one bedroom unit is occupied by a one and one-half household; a two bedroom unit is occupied by a three person household; a three bedroom unit is occupied by a four and one-half person household; and a four bedroom unit is occupied by a six person household.

### **Affordable Housing Agreement**

Affordable Housing Agreement means the written agreement between an owner of an affordable housing unit and the Department that imposes restrictions on units developed with funding from the Neighborhood Preservation Balanced Housing Program to ensure that those housing units remain affordable to households of low and moderate income for a specified period of time.

### **Alteration**

Alteration means the rearrangement of any space by the construction of walls or partitions, the addition or elimination of any door or window, the extension or rearrangement of any system, the installation of any additional equipment or fixtures and any work, which affects a primary structural component.

### **Applicant Household**

Applicant household means a household that has submitted a Preliminary Application for an eligibility review.

### **Assessments**

Assessments means all taxes, levies, or charges, both public and private, including those charges by any condominium, cooperative or homeowner's association as the applicable case may be, imposed upon the affordable housing unit.

**Balanced Housing Unit**

Balanced Housing Units means those units within a project receiving Balanced Housing funds which are subject to affordability controls in accordance with N.J.A.C 5:43-4 or a mortgage in accordance with N.J.A.C 5:43-4 regardless of whether such controls or mortgages are waived or modified.

**Base Rent**

Base rent means the monthly charge established for a rental unit at the time the unit is first restricted by affordability controls.

**Cash Flow**

Cash flow means the remainder of project revenue minus expenses.

**Certified Household**

Certified household means any eligible household whose total gross annual income has been verified, whose financial resources have been approved and who has received certification as a low or moderate income-eligible household for referral to an affordable housing unit.

**Closing Costs**

Closing costs means those costs of a real estate sale that are incurred by the buyer and seller at the time of sale including, but not limited to, attorney's fees, mortgage points, real estate transfer fee, and applicable real estate broker fees.

**Department**

Department means the Department of Community Affairs.

**Design Considerations**

Design considerations mean projects that have been designed to harmonize architecturally with the surrounding buildings and neighborhood. (See chapter Appendix I, incorporated herein by reference, for further details.)

**Distressed Urban Municipality**

Distressed urban municipality means a municipality which is eligible for State aid pursuant to P.L. 1978, c.14 (N.J.S.A. 52:27D-178 et seq.) and is within the first 50 most distressed municipalities in accordance with the Municipal Distress Index as maintained and published by the Office of State Planning. A list of these municipalities is included in chapter Appendix J, incorporated herein by reference.

**Division**

Division means the Division of Housing and Community Resources in the Department of Community Affairs.

**Eligible Household**

Eligible Household means a household whose preliminary application has been reviewed, whose unverified estimated total gross annual income is judged to be low or moderate income pursuant to applicable guidelines, and whose name has been placed on a referral list for affordable housing.

**Eligible Neighborhood**

Eligible Neighborhood means a neighborhood that is viable, as defined by N.J.S.A. 52:27D-143 et seq. (P.L. 1975, c.248), the Maintenance of Viable Neighborhoods Act, a target area or a currently non-viable neighborhood provided that there is in place a strategy that is realistic and financially feasible which will ensure that the neighborhood will be viable within a reasonable time of project completion. Included in any such strategy shall be a plan for ameliorating crime, blight, high vacancy rates and any other factors that might have a negative impact on the long-term viability of the neighborhood and a proposed project.

**Energy Efficient Housing Unit**

Energy efficient housing unit means a housing unit that achieves 86 points or more on the Home Energy Rating Scale (HERS) or is certified as an “Energy Star Home” by an accredited home energy rater. See chapter Appendix G, incorporated herein by reference.

**Expenses**

Expenses means the sum of all cash expenditures incurred in the operation of a project including:

1. Debt service on superior mortgages;
2. Expenses unpaid but properly accrued; and
3. Payments to the projects reserve accounts.

**First Money Mortgagee**

First money mortgagee means the holder and/or assigns of the first money mortgage which must also be an institutional lender or investor, licensed or regulated by a State or Federal government or an agency thereof.

**Foreclosure**

Foreclosure means the termination through legal processes of all rights of the mortgagor or the mortgagor's heirs, successors, assigns or grantees in a restricted Affordable Housing unit covered by a recorded mortgage.

**Gross Annual Income**

Gross annual income means the total calculated amount of a household's income from all sources including, but not limited to, salary, wages, regular overtime, interest, dividends, alimony, child support, pensions, social security, unemployment, disability, business income and capital gains, tips and welfare benefits. Income is calculated based on a weekly, bi-weekly, semi-monthly, or monthly figure that is effective at the time of the certification interview and estimated for a 12-month period.

**Gross Rent**

Gross rent means the total cost of a rental unit to a certified household when a tenant-paid utility allowance is added to the base rent.

**Household**

Household means the person or persons occupying a housing unit.

**Index**

Index means the measured percentage of change in the median income established for a household of four by geographic region using the applicable median income guide published periodically by the U.S. Department of Housing and Urban Development as blended by COAH region and approved for use by the N.J. Council on Affordable Housing. For rental units, Index means the Consumer Price Index for Housing as published monthly by the U.S. Department of Labor Statistics and approved for use by the Council on Affordable Housing. For rental units receiving Low Income Housing Tax Credits, Index means the measured percentage of change in the capped Section 8 Income Limits published periodically by the U.S. Department of Housing and Urban Development.

**Low Income Household**

Low income household means a household whose gross annual income is equal to 50 percent or less of the median gross income established by geographic region and household size using income figures and family size adjustment methodology published periodically in the Federal Register by the U.S. Department of Housing and Urban Development and approved for use by the Council on Affordable Housing.

**Low Income Housing Tax Credit (LIHTC)**

Low Income Housing Tax Credit (LIHTC) means the credit, established by Section 42 of the Internal Revenue Code of 1986, 26 U.S.C.42, that may be applied against the Federal income tax of persons or associations who or which have invested in certain buildings providing housing for families of low-income. As the housing credit agency for the State of New Jersey, the New Jersey Housing and Mortgage Finance Agency (NJHMFA) allocates these credits to qualified taxpayers and thereafter monitors their compliance with Section 42 of the Code. The rules used by NJHMFA to perform its allocation and monitoring responsibilities are set forth in the Qualified Allocation Plan (QAP). Each year, the Qualified Allocation Plan is published at N.J.A.C. 5:80-33. Two types of tax credits are described in the QAP. Credits issued in connection with buildings financed with the proceeds from tax exempt bonds subject to the volume cap restrictions provided in Section 42(h)(4) of the IRS code are not allocated on a competitive basis and are referred to as “volume cap tax credits.” Those credits which are issued in accordance with the State housing credit ceiling, are awarded through competitive cycles described in the QAP, and are referred to in the chapter as the “competitive tax credits.”



**Mixed Income/Use Development**

Mixed income/use development means a development which contains both affordable and either market housing units and/or commercial development and, wherein, the permits and approvals for the non affordable portion of the development are bound by the requirement that the affordable portion also be built.

**Moderate Income Household**

Moderate income household means a household whose gross annual income is equal to more than 50 percent but less than 80 percent of the median gross income established by geographic region and household size using income figures and family size adjustment methodology published periodically in the Federal Register by the U.S. Department of Housing and Urban Development and approved by the Council on Affordable Housing.

**Moderate Rehabilitation**

Moderate Rehabilitation means the repair, renovation and/or alteration of a unit.

**Neighborhood**

Neighborhood means an area which is recognized as a distinct entity by virtue of certain factors, such as: definite boundaries, natural or man-made; history; architecture; facilities which attract people within a certain radius; or a shared sense of identity or social cohesion. This definition is equally applicable to neighborhoods in urban, suburban, and rural communities.

**New Unit**

New Unit means any unit that has been constructed, reconstructed or created through the conversion of a non-residential building within the three years preceding submission of an application, meets all applicable code requirements and has not been occupied since the time of its construction or reconstruction.

**Owner**

Owner means the title holder of record as reflected in the most recently dated and recorded deed for the particular affordable housing unit.

**Pilot Program**

Pilot Program means a trial program of limited duration established by the Commissioner which will further the purpose of the Fair Housing Act and which may require waiver of specific provisions of these rules.

**Price Differential**

Price Differential means the total amount of the unrestricted sales price that exceeds the maximum restricted resale price as calculated by the Index. The unrestricted sales price shall be no less than a comparable fair market price as determined by the Division at the time a Notice of Intent to Sell has been received from the owner.

**Primary Residence**

Primary Residence means the unit wherein a certified household maintains continuing residence for no less than nine months each calendar year.

**Purchase**

Purchaser means a certified household who has signed an agreement to purchase an affordable housing unit subject to a mortgage commitment and closing.

**Range of Affordability**

Range of Affordability means the household income, expressed as a percentage of the median income, at which a given unit is affordable.

**Reconstruction**

Reconstruction means any project where the extent and nature of the work is such that the work area cannot be occupied while the work is in progress and where a new certificate of occupancy is required before the work area can be reoccupied. Reconstruction may include repair, renovation, alteration or any combination thereof. Reconstruction shall not include projects comprised only of floor finish replacement, painting or wallpapering, or the replacement of equipment or furnishings. Asbestos hazard abatement and lead hazard abatement projects shall not be classified as reconstruction solely because occupancy of the work area is not permitted.

**Rehabilitation**

Rehabilitation means the repair, renovation, alteration or reconstruction of any building or structure as defined herein and as defined in N.J.A.C. 5:23-6.3.

**Renovation**

Renovation means the removal and replacement or covering of existing interior or exterior finish, trim, doors, windows or other materials with new materials that serve the same purpose and do not change the configuration of space. Renovation shall include the replacement of equipment or fixtures.

**Renter**

Renter means a household who has been certified for an affordable housing unit for rent subject to the signing of a lease and the payment of any required security deposit.

**Repair**

Repair means the restoration to a good or sound condition of materials, systems and/or components that are worn, deteriorated or broken using materials or components identical to or closely similar to the existing.

**Repayment Lien**

Repayment lien means the second mortgage and note signed by the owner that is given to the Division as security for the payment of 95 percent of the price differential generated by the first non-exempt sale of an affordable housing sales unit at the time of closing and transfer of title of the property after the ending date established in the Affordable Housing Agreement.

**Resale Price**

Resale price means the price as adjusted by the Index. The resale price may also be adjusted to accommodate an approved home improvement. In the case of central air conditioning installed after the initial sale, the adjustment shall be the cost of the unit installed minus 1/120 of that cost for each month of use up to the end of the tenth year.

**Revenue**

Revenue means the sum of all cash received from project operations, including, but not limited to:

1. Tenant paid rents;
2. Commercial income and/or lease payments;
3. The net proceeds of any insurance payments which are not reinvested in the property; and
4. Any other funds, including reserve accounts, which are deemed available for distribution by the owner.

**Senior Citizen**

Senior Citizen means any person age 62 years or older.

**Single Room Occupancy Unit (SRO)**

Single Room Occupancy Unit (SRO) means a unit within a structure in which households maintain private rooms yet share kitchen and plumbing facilities, central heat and common areas.

**Standard**

Standard means a building which has been repaired in whole or in part with Balanced Housing funds and certified by the local construction official or other public official having jurisdiction to be free of code violation in accordance with the standards adopted under the Uniform Construction Code, N.J.A.C. 5:23, and the Section 8 Existing Housing Quality Standards.

**Substandard**

Substandard means a building, which has been certified as substandard by a municipality. The certification must state that health and safety code violations exist and that, in order to abate those code violations, one or more of the following major systems must be replaced or extensively repaired: roof, electrical, plumbing, sanitary plumbing, heating or load bearing structural systems.

### **Sustainable Development Strategies**

Sustainable development strategies means those strategies which minimize the impact of housing developments on the environment, provide building designs which enhance the health safety and well-being of the residents, providing durable, low-maintenance housing and make optimum use of existing infrastructure. (See chapter Appendix H, incorporated herein by reference, for further details.)

### **System**

System means the primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building including any equipment, fixtures, connections, conduits, wires, pipes, ducts, as well as any associated sensors, controls, distribution or safety elements.

### **Target Areas**

Target areas means those geographic areas or neighborhoods that have been designated by the Governor, Commissioner and/or the State Planning Commission as locations appropriate for intensive redevelopment. For example, designated Empowerment Zones and Enterprise Communities; areas formally designated by the State Planning Commission as State Plan centers and those communities that have an endorsed Strategic Revitalization Plan; designated neighborhoods within municipalities participating in the Department's Strategic Neighborhood Assistance Program; designated areas within municipalities selected by the Governor's Urban Coordinating Council to enter into a partnership with the State to organize and implement strategic revitalization plans; and municipalities that have adopted a neighborhood-based strategic community revitalization plan that addresses the specific needs of a neighborhood.

### **5:43-1.6 WAIVER**

Any applicant desiring a waiver or release from the express requirements of any provision of this chapter may make such request, in writing, to the Department. A waiver shall be granted, only by the Commissioner, under extraordinary circumstances, and provided that the applicant conclusively demonstrates that the waiver shall further the purposes of these rules and the Fair Housing Act and that the waiver shall provide a significant benefit to the residents of the State.

### **5:43-1.7 MAXIMUM ALLOWABLE PROJECT FEES**

- (a) The maximum contractor fee shall be determined in accordance with Appendix F, incorporated herein by reference.
- (b) The maximum per unit amount, which may be taken out of the project as developer fee shall be calculated as follows:

Maximum Per Unit Developer Fee  
(in thousands of dollars)

<u>Unit Size</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
Studio		5	7	
One bedroom	5	7	9	10
2 bedroom	6	8	10	11
3 bedroom	7	9	11	12
4 or more bedrooms	8	10	12	13

1. Column A shall apply to new homeownership units, which are not located in distressed urban municipalities.
  2. Column B shall apply to new rental units, which are not located in distressed urban municipalities.
  3. Column C shall apply to new rental units located in distressed urban municipalities.
  4. Column D shall apply to new homeownership units located in distressed urban municipalities.
- (c) The Department shall waive these limits in cases where an applicant can demonstrate that a higher fee is needed in order to achieve project feasibility. If all or a portion of the developer fee is deferred until more than one year after project completion, the Commissioner may allow a higher fee than calculated in subsection (b) above as long as the discounted value of the deferred fees does not exceed that which otherwise would have been allowed.
- (d) No developer fee, regardless of the source of that fee, shall be allowed for moderate rehabilitation units.

#### **5:43-2.1 FUNDING CYCLES AND APPLICATION PROCEDURES**

With the exception of applications for Neighborhood Rehabilitation projects (see N.J.A.C. 5:43-3.9), the Department shall accept applications on a continuous basis.

#### **5:43-2.2 ALLOCATION OF FUNDS**

- (a) In each fiscal year, the Commissioner may set aside all or a portion of the fund for any given time period for specific activities including, but not limited to, pilot programs, projects in specific target areas or specific project types or projects directed to specific target populations.
- (b) For funds which are not set aside by the Commissioner, the Department shall conduct four competitive funding cycles as follows:
  1. Tax credit cycle. Only projects, which are also applying for Low Income Housing Tax Credits in the spring allocation cycle shall be considered during this round. The application deadline and funding announcement dates shall coincide with the tax credit allocation dates. If there is an additional application cycle for Low

- Income Housing Tax Credits, the same timing shall apply.
2. Summer cycle. Applications received by August 15 shall be considered for funding on or about October 31.
  3. Fall cycle. Applications received by November 15 shall be considered for funding on or about January 31.
  4. Final cycle. Applications received by March 15 shall be considered for funding on or about May 31.
  5. In cases where delaying funding until the next cycle would prevent the project from going forward, the Commissioner shall have the discretion to fund projects at any time.
  6. During each funding cycle, applications, which are not funded, shall be carried forward if they meet the criteria necessary to be funded or rejected if they do not. If carried forward, applicants shall be notified that their application shall be considered during the next funding cycle.
- (c) The distribution of funds to each cycle shall be at the discretion of the Commissioner.
- (d) All Balanced Housing funds shall be allocated to municipalities on behalf of specific projects. In the event that the project does not proceed within the time specified in the Grant Agreement, the funds shall be reallocated by the Department. The prior allocation shall have no effect on the reallocation of captured funds.
- (e) In order to promote an equitable statewide distribution of funds, the Commissioner may limit the funding amount to any one municipality in a given fiscal year.
- (f) Neighborhood rehabilitation projects shall be funded only within designated neighborhoods specified in this section or in municipalities in which Balanced Housing funds would be used to support activities funded by other Division programs.
- (g) Any Balanced Housing application for a project which is being submitted concurrently to the New Jersey Housing and Mortgage Finance Agency (NJHMFA) for low income housing tax credits must contain project information which is consistent with the application which is being submitted to NJHMFA for the tax credits. Any material difference between the applications shall result in the Balanced Housing application being denied.

### **5:43-2.3 COST CRITERIA**

- (a) Except as noted in (g) below, the Department sets the following as the maximum acceptable per-unit costs for projects to be funded:

S.R.O./				
<u>Studio</u>	<u>1BR</u>	<u>2BR</u>	<u>3BR</u>	<u>4BR</u>
\$105,000	\$125,000	\$135,000	\$150,000	\$160,000

- (b) For projects required to provide a parking garage, the acceptable cost may be increased by \$10,000 for each parking space, not to exceed one space per unit, provided exclusively for, and without charge to, the low and moderate income tenants.
- (c) The costs listed in (a) and (b) above shall be adjusted annually by the percentage approved by COAH in accordance with N.J.A.C. 5:93-9.15(b). The Department will publish a notice of the adjusted costs in the New Jersey Register.
- (d) The following costs may be deducted from the total cost calculation:
  - 1. Upon verification and approval by the Division, the marginal costs attendant to the use of sustainable development strategies;
  - 2. Housing Affordability Service (HAS) fees;
  - 3. Low Income Housing Tax Credit (LIHTC) allocation fees;
  - 4. The cost attendant to fire suppressions systems per N.J.A.C. 5:43-3.1(t); and
  - 5. The cost attendant to construction supervision per N.J.A.C. 5:43-3.1(u).
- (e) Although the Department may consider applications for projects which exceed the maximum acceptable costs, the maximum subsidy for such projects shall be reduced on a dollar for dollar basis by the amount the acceptable cost is exceeded.
- (f) Each applicant shall be required to explain and justify costs.
- (g) The following shall be exempt from (a) and (e) above:
  - 1. Projects located in neighborhoods designated by the Governor's Urban Coordinating Council provided that the redevelopment of the subject property as affordable housing is logical and consistent with the Urban Coordinating Council plan and is vital to the redevelopment of the neighborhood and provided that the excess costs are inextricably linked to redevelopment of the particular site.
  - 2. Projects providing permanent housing for persons with handicaps, applying in accordance with N.J.A.C. 5:43-3.3; and
  - 3. Hope VI projects applying in accordance with N.J.A.C. 5:43-3.12.

#### **5:43-2.4 REVIEW CRITERIA**

- (a) During each funding cycle, the Department shall evaluate eligible projects based on the criteria listed below. The Department shall favor the following:
  - 1. Projects that are located in a target area;
  - 2. In urban aid municipalities, projects that provide mixed income housing opportunities including low, moderate and market units;

3. Projects that seek to encourage minorities and neighborhood residents that are employed by the sponsor/developer to undertake construction, rehabilitation or other related development activities for a specific purpose;
4. Projects that have committed funds for the provision of support services and programs that are appropriate for and accessible to residents;
5. Projects in which the affordability controls shall be in place for a longer period than required in accordance with N.J.A.C. 5:43-3.1(f);
6. Projects that provide amenities such as additional bathrooms, storage space, porches, balconies, private yard and where appropriate, shared facilities such as senior citizen activity rooms or lounges;
7. Projects that serve a population generally not served by the private market, for example, projects that provide housing opportunities for households with incomes below 40 percent range of affordability, persons with special needs or homeless persons;
8. Projects that provide family housing in developing communities;
9. Projects that may be expected to have a positive impact on the neighborhood and/or would further the objectives of a strategic neighborhood plan;
10. Projects that employ sustainable development strategies. (See chapter Appendix H for details);
11. Projects with rents and prices that are staggered so that the units are affordable to a wide range of eligible households;
12. Projects in which the municipality provides tangible, quantifiable support, for example, cash, land, fee reduction, and/or loan guarantee, particularly in suburban communities; and
13. Projects that are designed to harmonize architecturally with the scale and character of the surrounding buildings and, in general, reinforce or enhance the character of the neighborhood in which they are located. (See Appendix I, Design Guidelines, for details.)

#### **5:43-3.1 GENERAL PROVISIONS**

- (a) Successful applicants to the Neighborhood Preservation Balanced Housing Program shall be invited to enter into a grant agreement with the Department.
  1. Upon the request of an applicant, the Department may, at its sole discretion, contract directly with a sponsor/developer of a proposed project. The decision of the Department to contract directly with sponsor/developer shall be based on evidence that doing so shall enhance project feasibility and a determination that the sponsor/developer has sufficient capacity to carry out all administrative, financial and other requirements of the grant agreement.
  2. The terms and conditions of any grant agreement shall be at the



- sole discretion of the Department.
3. Balanced Housing grant agreements shall include provision(s) prohibiting the municipality from selling tax liens on the subject property prior to the closeout of the agreement.
- (b) Eligible Neighborhoods: All projects proposed for funding must be in an eligible neighborhood. Applicants shall be required to demonstrate that the neighborhood is appropriate for the population to be served.
- (c) Applicants to the Balanced Housing Program will be required to demonstrate their ability, both administrative and financial, to develop and manage the proposed project.
1. The qualifications and experience with respect to the development, marketing and, where relevant, the long term management of affordable housing of key participants, including, but not limited to, the sponsor/developer, management entity, consultant, administering agent and the municipality, will be examined.
    - i. Failure by any of the participants to comply with the program requirements in projects previously funded by the Department, including, but not limited to, failure to pay the Housing Affordability Service, or failure to make required loan payments to the Department, shall be grounds for disqualifying an application and/or a participant.
    - ii. The association of any of the key participants with other projects which are experiencing either operating difficulties or delays in development shall be grounds to deny the application or to carry it forward until such time that the problems are corrected.
  2. Participants lacking the qualifications necessary to carry out the project will be encouraged to joint venture with individuals/groups that can provide these qualifications.
- (d) At least 50 percent of the low and moderate income units to be funded shall be affordable to low income households. The following are exempt from that requirement:
1. Homeownership projects, which are located in distressed urban municipalities and are not part of a Regional Contribution Agreement;
  2. Neighborhood rehabilitation projects;
  3. Two-family projects;
  4. Rental rehabilitation projects; and
  5. Neighborhood stabilization/revitalization projects.
- (e) Except as noted in N.J.A.C. 5:43-4.2(a) and (b), Balanced Housing funding recipients shall contract with the Housing Affordability Service (HAS) or a private entity approved in accordance with N.J.A.C. 5:43-4(b)4 and 5 in order to monitor affordability controls. If a recipient elects not to use HAS, any fees charged in excess of those which would have been charged by HAS shall be borne by the developer.

- (f) Any new units funded through the Balanced Housing Program must remain affordable for the time period which is required by N.J.A.C. 5:93-9.2.
- (g) **Rehabilitation of Occupied Units:** If a sponsor/developer is undertaking reconstruction and one or more of the units is currently occupied, the occupied unit(s) shall be eligible only if the household occupying the unit is certified to be income eligible. If any current occupants will be relocated, this action must be completed in accordance with an approved Workable Relocation Assistance Plan (WRAP), pursuant to N.J.S.A. 20:4-1 et seq. and N.J.S.A. 52:31B-1 et seq.
- (h) The methodology for determining the maximum Balanced Housing subsidy is explained in N.J.A.C. 5:43-3.3 through 3.14 for each type of project.
1. The Commissioner may, at his or her discretion, award less than the maximum subsidy, structure the assistance as a secured loan, with or without interest, or provide additional assistance for short term financing, including construction and/or bridge loans, if needed, to ensure project feasibility.
  2. In addition to the maximum subsidies described in N.J.A.C. 5:43-3.3 through 3.14, the Department may provide up to \$7,500 per unit for approved sustainable development strategies, up to \$500.00 per unit to cover the cost of HAS services and up to the amount required to provide automatic fire suppression, provided that the cost is verified by the Department and does not exceed \$2.00 per square foot.
  3. The Department reserves the right, based on the size and design of the units, to restrict the size of a household that will occupy the unit and to provide funding in accordance with the reduced household size.
  4. Units which are set aside for occupancy exclusively by senior citizens shall be funded as one bedroom or, where applicable, as studio/SRO units, regardless of the actual number of bedrooms.
  5. The Department may, at its discretion, reduce the maximum subsidy if an analysis of the construction design and specifications determines that essential function can be preserved at a lower cost.
  6. Notwithstanding the sum of the maximum subsidies as determined in this chapter the Department will not provide funding in excess of \$4 million per project or in excess of \$75,000 average per unit subsidy.
- (i) The amount of Balanced Housing funds reserved for a project shall be based on the information provided in the application and shall fund only the gap between project cost and other revenue.
1. The Department shall also take into account the following factors in determining the amount of subsidy:

- i. Whether there is any other source of funds, which can be used to undertake this activity. The Department expects the applicant to use all possible private resources and non-Balanced Housing subsidies; and
  - ii. Whether the project can be achieved without Balanced Housing subsidy.
  - iii. Notwithstanding (I) 1i and ii above, the Department shall not penalize any application in which the municipality has pledged funds in accordance with N.J.A.C. 5:93-5.5(a)3ii.
- (j) Balanced Housing funding shall not be used as a substitute for private financing where the latter is feasible and attainable.
- (k) The developer must submit a detailed estimate of project funding and project costs and, upon project completion of construction and prior to project close out, a certification by a certified public accountant of actual project funding and project costs. The Department reserves the right to conduct an independent audit of final project costs.
- (l) In all instances, Balanced Housing funds will be awarded to the municipality as a grant. The municipality shall provide the Balanced Housing funds for a rental unit to the developer as a loan. All such loans shall be secured by a mortgage and a note, which shall be repayable to the Department. All terms and conditions of the loan documents shall be subject to the approval of the Department. With the exception of neighborhood rehabilitation, rental rehabilitation and two-family projects, the following shall apply:
  - 1. The length of the loan shall not exceed the affordability period;
  - 2. The interest rate shall be one percent compounded annually;
  - 3. Payment shall equal 50 percent of cash flow, paid annually, with any balance due upon expiration of affordability controls; and
  - 4. The Department, at its discretion, may independently audit the project records to verify income and expense.
- (m) Balanced Housing funds may be provided to a project during the development phase as a construction loan where project feasibility requires supplementing private sources of construction financing. The terms and conditions of the construction loan provided by the Balanced Housing Program shall be at the discretion of the Department. The Department shall subordinate its construction loan to the lien of another construction lender provided that the sponsor/developer provides evidence that the subordination is necessary to achieve project feasibility.
- (n) In cases where Balanced Housing funds are made available during construction, the Department shall subordinate the Balanced Housing construction loan to the lien of a permanent lender(s) upon completion of the construction of the project and on terms and conditions determined at the discretion of the Department. After a project's permanent financing is in place and after the project has been placed in service, the Department

shall consider honoring a request to subordinate its mortgage to the lien of another lender, provided that the sponsor/developer provides evidence to the satisfaction of the Department that the project income can service an increased level of private debt and that some public benefit will result from honoring the request to subordinate the Department's mortgage. An initial funding commitment to the project by the Department shall not constitute a commitment to subordinate the Balanced Housing loan after the initial permanent financing has been accomplished and after the project has been placed in service.

1. The sponsor/developer shall submit a request for subordination to the Division Director. The decision of the Division Director shall be presented in writing and shall be final. The request for subordination shall include:
  - i. An up-to-date income and expense statement;
  - ii. A mortgage commitment regarding the proposed refinancing;
  - iii. Verification that reserves are at required levels;
  - iv. A statement regarding project vacancies, turnover and anticipated major expenditures; and
  - v. An explanation of the public benefit that will occur. It shall be considered to be of public benefit if refinancing the project results in cash that will be utilized to:
    - (1) Perform necessary repairs in the project that cannot be funded by the accumulated ;
    - (2) Provide a source of development funding to create additional units that will be affordable to low and moderate income occupants; or
    - (3) Allow the sponsor/developer to increase the time period during which units will be affordable to low and moderate income households; and
  - vi. Any additional information that the Department may deem necessary in order to make a determination.
- (o) A household receiving assistance under Section 8 of the Federal Housing Act of 1937, as amended by the Housing and Community Development Act of 1974, shall be eligible for housing under the Balanced Housing Program, provided, however:
  1. The household meets all requirements for the Balanced Housing Program; and
  2. The combined household rental payment and housing assistance payment shall not exceed that provided for in the Balanced Housing grant agreement.
- (p) The average range of affordability for units funded shall not exceed 57.5 percent for any project located in a distressed urban municipality, 55 percent for all other homeownership projects, or 52 percent for all other rental projects.
- (q) With the exception of neighborhood rehabilitation projects, neighborhood stabilization/revitalization projects and acquisition/rehabilitation projects,

all applicants shall demonstrate control of the project site by holding title, by a sales contract, by an option to purchase, by designation from the municipality as designated developer or by any other means, which the Division Director may approve.

- (r) For all purposes related to funding and occupancy of units, with the exception of SRO units, each unit funded shall contain at least one bedroom with no less than 150 square feet.
  - 1. Each additional bedroom shall be no less than 100 square feet.
  - 2. Each SRO unit shall be no less than 100 square feet.
- (s) Every new unit that receives Balanced Housing subsidy shall qualify as an Energy Efficient Housing Unit.
- (t) Every building containing new Balanced Housing units shall be provided with an automatic fire suppression system. Such systems shall include the entire building and shall be installed in accordance with the Uniform Construction Code.
- (u) The Department reserves the right, at its sole discretion to require on site construction supervision.
- (v) The Department reserves the right, at its sole discretion, to reject any project the design for which it deems inappropriate to the site or the immediate neighborhood within which it is to be built or rehabilitated.

#### **5:43-3.2 TYPES OF PROJECTS**

- (a) The Department shall only fund projects falling into at least one of the following categories:
  - 1. Permanent housing for persons with handicap projects described in N.J.A.C. 5:43-3.3;
  - 2. Rental projects, described in N.J.A.C. 5:43-3.4;
  - 3. Two-family projects, described in N.J.A.C. 5:43-3.5;
  - 4. Homeownership projects, described in N.J.A.C. 5:43-3.6;
  - 5. Acquisition/rehabilitation projects, described in N.J.A.C. 5:43-3.7;
  - 6. Section 202, Section 811 and non-HOPE VI, public housing new construction Project, described in N.J.A.C. 5:43-3.8;
  - 7. Neighborhood rehabilitation projects, described in N.J.A.C. 5:43-3.9;
  - 8. Landlord projects, described in N.J.A.C. 5:43-3.10;
  - 9. Matching funds projects, described in N.J.A.C. 5:43-3.11;
  - 10. HOPE VI projects, described in N.J.A.C. 5:43-3.12;
  - 11. Neighborhood stabilization/revitalization projects, described in N.J.A.C. 5:43-3.13; and
  - 12. Other projects, described in N.J.A.C. 5:43-3.14.

#### **5:43-3.3 PERMANENT HOUSING FOR PERSONS WITH HANDICAPS PROJECTS**

- (a) The Balanced Housing Program may provide funding for the construction, reconstruction or conversion of units that will provide permanent housing for income eligible households which contain one or more persons with a handicap.
  - 1. Eligible projects may include, but are not limited to, residential health care facilities as regulated by the New Jersey Department of Health; group homes for the physically and/or developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.
- (b) In such projects, the form and amount of Balanced Housing assistance shall be at the discretion of the Department, but shall not exceed the lesser of \$50,000 per bedroom or 50 percent of total project cost.

#### **5:43-3.4 RENTAL PROJECTS**

- (a) The Balanced Housing Program may provide assistance to eligible applicants for use by for-profit or not-for-profit housing sponsors who provide new rental housing units for occupancy by low and moderate income households. Eligible activities shall include new construction, reconstruction and the conversion of non-residential structures.
  - 1. The buy-down of new units, which are not deed restricted in order to make them affordable, is also eligible.
- (b) The maximum allowable subsidy for a rental unit shall be determined in accordance with Appendix B to this chapter if the project is located in a distressed urban municipality or in accordance with Appendix C of this chapter for all other projects.
- (c) Applicants may combine a rental project with a homeownership project.

#### **5:43-3.5 TWO-FAMILY PROJECTS**

- (a) The Balanced Housing Program may provide assistance in distressed urban municipalities to eligible applicants for use by for-profit and not-for-profit housing sponsors/developers who provide home ownership and rental opportunities for low and moderate-income households via the production of two-family homes wherein one of the two units is owner-occupied. Eligible activities shall include new construction and reconstruction.
- (b) The maximum allowable subsidy for a two-family project shall be \$35,000 per unit.
- (c) Balanced Housing shall fund only those projects wherein the homeowner unit is a Balanced Housing unit.
- (d) During the affordability control period, all rental units included in a two-family project shall be leased by the sponsor/developer from the homeowner. The lease shall be subject to the review and approval of the

Department and shall include the following:

1. The maximum base rent charged to the sponsor/developer shall not exceed that which is affordable to a household earning 50 percent of median.
  2. Provision(s) allowing the sponsor/developer to sublease the unit to a qualified household; and
  3. Provisions that allow the homeowner to participate in the tenant selection process and reject, for good cause, tenants suggested by the sponsor/developer.
- (e) The sponsor/developer shall sublease the rental unit to qualified households for a rent, which does not exceed the lease rate plus an administrative fee, not to exceed \$25.00 per month.
- (f) The sponsor/developer shall be responsible for ensuring compliance with affordability controls, including, but not limited to, ensuring that all tenants have been certified by the Housing Affordability Service.
- (g) Subject to the approval of the Department, the sponsor/developer may assign its responsibilities under this section with respect to rental units to an administrative agent, including but not limited to, a neighborhood based non-profit, approved administrative agent or a property management company.

#### **5:43-3.6 HOMEOWNERSHIP PROJECTS**

- (a) The Balanced Housing Program may provide assistance to eligible applicants for use by for-profit and not-for-profit housing sponsors who provide homeownership opportunities to low and moderate income households through new construction, reconstruction or the conversion of nonresidential structures.
1. The buy-down of new units off the open market in order to make them affordable is also eligible.
- (b) Qualifying units must be new and must be sold at affordable prices.
- (c) Condominium and cooperative as well as fee simple ownership forms are eligible.
- (d) The maximum subsidy for homeownership projects shall be determined in accordance with Appendix D to this chapter, incorporated herein by reference, if the project is located in a distressed urban municipality or in accordance with Appendix E, incorporated herein by reference, for all other projects.
- (e) Applicants may combine a homeownership project with a rental project.
- (f) Applicants for homeownership projects shall make provisions for the on-going viability of the project including, but not limited to, homeowner

training.

#### **5:43-3.7 ACQUISITION/REHABILITATION PROJECTS**

- (a) The Balanced Housing Program may provide assistance to eligible applicants wishing to acquire or acquire and moderately rehabilitate existing, vacant housing for occupancy by low and moderate-income households. Occupancy may be either rental or homeownership. Units acquired up to two years prior to the application, which are substandard at the time of application are eligible.
- (b) The maximum Balanced Housing subsidy for an acquisition/rehabilitation project shall be \$25,000 per unit.
- (c) All units assisted must be vacant at the time of acquisition. The Division may waive this requirement if the households to be served are senior citizens, persons with a handicap or single parents or if the applicant can demonstrate that this project will prevent the imminent loss of affordable units and the displacement of low and moderate-income households. Condominium conversion is not, in and of itself, considered evidence of imminent loss.
- (d) The sponsor need not identify specific buildings when applying for funds but should identify a neighborhood or group of buildings.
- (e) Except as noted in (c) above, the acquisition or acquisition and rehabilitation of units that are already in standard condition and affordable but not deed restricted to low and moderate income households shall only be permitted insofar as the proposed activity will lower the range of affordability.
- (f) Sponsors of acquisition/rehabilitation projects shall be required to demonstrate ongoing management capacity and financial feasibility of the project for the length of the control period including, but not limited to, the provision of sufficient reserves to ensure the timely repair and replacement of any systems not addressed during the initial rehabilitation.
- (g) Any structure repaired in whole or in part with Balanced Housing funds must, upon completion be certified as standard.

#### **5:43-3.8 SECTION 202, SECTION 811 AND NON0-HOPE VI PUBLIC HOUSING NEW CONSTRUCTION PROJECTS**

- (a) The Balanced Housing Program may provide assistance to eligible applicants applying on behalf of public housing authorities and not-for-profit sponsors to construct projects in accordance with Section 202 of the Housing Act of 1959 (12 U.S.C. 1709), Section 811 for the National Affordable Housing Act (PL 101-625) or with the exception of HOPE VI Projects (Section 24), the U.S. Housing Act of 1937 (92 U.S.C. 1437 et seq.
- (b) The total Balanced Housing subsidy shall not exceed the lesser of \$15,000



per unit or 15 percent of total project costs.

- © Applications for a Section 202, Section 811 or Public Housing New Construction Project must include a conditional or final commitment from HUD.

#### **5:43-3.9 NEIGHBORHOOD REHABILITATION PROJECTS**

- (a) The Balanced Housing Program may provide assistance to distressed urban municipalities to identify and moderately rehabilitate substandard units in one-to-four- family owner occupied structures within a target neighborhood.
- (b) The maximum Balanced Housing grant to a municipality under a Neighborhood Rehabilitation Agreement shall be \$300,000.
- (c) Rehabilitation activity shall average at least \$8,000 per unit over the contract period. The municipality may use the lesser of 16 percent of the grant or \$2,000 per unit to administer the program.
- (d) Applicants shall demonstrate to the satisfaction of the Division the existence of an active, systematic code enforcement program or a commitment to establish one within 90 days of the start date of a Balanced Housing contract.
- (e) The following shall apply to municipalities administering a Neighborhood Rehabilitation Project:
  - 1. Neighborhood Rehabilitation assistance is limited to one-to-four unit, owner-occupied structures; and
  - 1. No Balanced Housing assistance shall be provided to occupied housing units unless the occupants have been certified as low or moderate income.
- (f) In cases where a two-to-four unit structure is rehabilitated with Balanced Housing funds and one or more of the units are not assisted with Balanced Housing, a percentage of the cost of common area and system wide improvements equal to the percentage of unassisted units shall be paid by the owner. If the owner can demonstrate extreme financial hardship, the Division may modify or waive this requirement.
- (g) The maximum Balanced Housing Program assistance to any one unit may not exceed the following:
  - 1. For owner-occupied units, \$25,000; or
  - 2. For renter-occupied units, the lesser of \$10,000 or 75 percent of the rehabilitation cost, except that if an owner can demonstrate extreme financial hardship, the Division may waive or modify the requirement to match funds for rental units.
- (h) Eligible units shall be certified as substandard prior to the expenditure of funds.

- (i) Any structure repaired in whole or in part with Balanced Housing funds must, upon completion to be certified as standard.
- (j) Balanced Housing funds may be used only for work and repairs required to make a unit standard and any other work or repairs (including finishing and painting) that is directly related to the required activities. Improvements, which are exclusively cosmetic and the purchase of free-standing appliances (not including refrigerators or stoves) are prohibited.

#### **5:43-3.10 LANDLORD PROJECTS**

- (a) The Balanced Housing Program may provide assistance to eligible applicants for use by one or more landlords in the moderate rehabilitation of their units affordable to low and moderate-income households.
- (b) The maximum Balanced Housing grant to a municipality for a Landlord Project provided on behalf of a for-profit landlord shall be \$7,500 multiplied by the number of units to be rehabilitated, not to exceed a total of \$250,000, except as specified in (e) below. The for-profit landlord shall match Balanced Housing dollars on a one to one basis.
- (c) The maximum Balanced Housing grant to a municipality for a landlord project provided on behalf of a not-for-profit landlord shall be \$10,000 multiplied by the number of units to be rehabilitated not to exceed a total of \$330,000, except as specified in (e) below.
- (d) Housing Authorities may qualify as not-for-profit owners, but must demonstrate that they are in good standing with HUD and that insufficient Comprehensive Improvement Assistance Program (C.I.A.P.) funding is available to complete this project.
- (e) In cases where a landlord is rehabilitating a single building and rehabilitation on a smaller scale is not practical, the maximum grant may equal the sum of the per unit subsidies.
- (f) All units to be rehabilitated must be identified prior to a funding commitment from the Department.
- (g) The following shall apply to all Balanced Housing landlord project grant agreements:
  - 1. The owner must agree to maintain the units in standard condition for the life of the affordability controls. During the period of the affordability controls, units with subsequent violations must be repaired at the owner's expense; and
  - 2. The municipality must agree to re-certify the units as standard at regular intervals of two years or less.

- (h) In cases where a structure is rehabilitated with Balanced Housing funds and one or more of the units are not affordable, the cost of common area and system-wide improvements to be paid by the owner shall be proportionate to the number of units that are not Balanced Housing units divided by the total number of units.
- (i) The local construction official or licensed housing inspector must certify that each unit to be rehabilitated with Balanced Housing funds is substandard, that is, health and safety code violations exist, and that abating those code violations requires that one or more of the following major systems must be replaced or extensively repaired: roof, electrical, plumbing, sanitary plumbing, heating or load bearing structural systems.
- (j) Any structure rehabilitated in whole or in part with Balanced Housing funds must, upon completion, be certified by the local construction official or other public official having jurisdiction to be free of code violations in accordance with the HUD Section 8 Housing Quality Standards or any applicable State or local housing code that is more stringent.
- (k) Balanced Housing funds may be used only for work required to make a unit standard and any other work (including finishing and painting) that is directly related to the required activities. Luxury improvements, improvements, which are exclusively cosmetic and the purchase of free-standing appliances other than refrigerators and stoves are prohibited.

#### **5:43-3.11 MATCHING FUNDS PROJECTS**

- (a) The Balanced Housing Program may provide assistance to eligible applicants applying on behalf of projects which require matching funds in order to secure other financing which, without the match, would be lost to the State of New Jersey.
- (b) The maximum award for such projects shall be equal to the minimum amount which is required to obtain the financing.

#### **5:43-3.12 HOPE VI PROJECTS**

- (a) The Balanced Housing Program may provide assistance to eligible applicants applying on behalf of sponsors developing HOPE VI projects in accordance with Section 24 of the U.S. Housing Act of 1937 (42 U.S.C.1437v).
- (b) The maximum Balanced Housing subsidy for a HOPE VI project shall be \$10,000 per unit.

#### **5:43-3.13 Neighborhood stabilization/revitalization projects**

- (a) The Balanced Housing Program may provide assistance to distressed urban municipalities applying on behalf of a sponsor who will promote neighborhood stabilization and revitalization through the acquisition and

reconstruction and resale of existing units within a target neighborhood.

- (b) The amount of Balanced Housing assistance and the requirements of such assistance shall be in accordance with N.J.A.C. 5:43-3.5 for two-family structures and/or N.J.A.C. 5:43-3.6 for single family homeowner units.
- (c) The maximum Balanced Housing subsidy for a neighborhood stabilization/revitalization project shall be \$750,000.

#### **5:43-3.14 OTHER PROJECTS**

- (a) In addition to the previously listed types of Balanced Housing projects, the Department reserves the right to fund projects that do not fit into any of these formats. Such projects may include, but shall not be limited to pilot programs, those that are unique in terms of development, ownership, occupancy characteristics, and transitional facilities for the homeless.
- (b) In such projects, the form and amount of Balanced Housing assistance shall be at the discretion of the Commissioner.

**CONTRACTOR'S FEE SCHEDULE**  
**(Interpolate as Required)**

Fee Schedule: The Contractor's fee shall be based on a percentage of the construction cost in accordance with the following schedule:

<b>Construction Cost</b>	<b>%</b>	<b>Contractor's Fee</b>
Under 2 Million	10.0	---
\$2,000,000.00	10.0	\$200,000.00
3,000,000.00	9.5	285,000.00
4,000,000.00	9.0	360,000.00
5,000,000.00	8.5	425,000.00
6,000,000.00	8.2	492,000.00
7,000,000.00	7.9	553,000.00
8,000,000.00	7.6	608,000.00
9,000,000.00	7.3	657,000.00
10,000,000.00	7.0	700,000.00
11,000,000.00	6.7	737,000.00
12,000,000.00	6.6	792,000.00
13,000,000.00	6.5	845,000.00
14,000,000.00	6.4	896,000.00
15,000,000.00	6.3	945,000.00
16,000,000.00	6.2	992,000.00
17,000,000.00	6.1	1,037,000.00
18,000,000.00	6.0	1,080,000.00
19,000,000.00	5.9	1,121,000.00
20,000,000.00	5.8	1,160,000.00
21,000,000.00	5.7	1,197,000.00
22,000,000.00	5.6	1,232,000.00
23,000,000.00	5.5	1,265,000.00
24,000,000.00	5.4	1,296,000.00
25,000,000.00	5.3	1,325,000.00

(Continued)

Contractor's Fee Schedule  
Page 2

<b>Construction Cost</b>	<b>%</b>	<b>Contractor's Fee</b>
26,000,000.00	5.2	1,352,000.00
28,000,000.00	5.0	1,400,000.00
30,000,000.00	4.8	1,440,000.00
32,000,000.00	4.6	1,472,000.00
34,000,000.00	4.4	1,496,000.00
36,000,000.00	4.2	1,512,000.00
38,000,000.00	4.0	1,520,000.00
Over 38 Million	4.0	---

## **Subchapter 4: Affordability Controls**

Much of Subchapter 4 has been supplanted by N.J.A.C. 5:43-4.10 and 5:80-26, "Uniform Housing Affordability Controls", adopted by the Department, the Council on Affordable Housing and the New Jersey Housing and Mortgage Finance Agency on October 1, 2001. Included in that adoption was the following with respect to Balanced Housing rules:

### **5:43-4.10      Applicability**

**This subchapter shall be effective for housing units receiving funding from the Division under the Neighborhood Preservation Balanced Housing Program on the basis of funding agreements executed before the effective date of the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26, October 1, 2001. For housing units receiving funding based on funding agreements executed on or after that date, this subchapter shall be inapplicable, and the units shall be subject to the Uniform Housing Affordability Controls set forth at N.J.A.C. 5:80-26.**

However, because the Uniform Controls do not apply to most federally funded programs, including LIHTC projects, (see 5:80-26.1(a)) the Department is currently revising Subchapter 4 to address those units in a manner consistent with the both the New Jersey Fair Housing Act and the federal requirements. Applicants seeking guidance on affordability controls with respect to such projects should contact the program at (609) 633-6258.

## APPENDIX B

### Distressed Urban Municipalities- Maximum Subsidy Rental Units

Rent*	Studio/SRO	1BR	2BR	3BR	4BR
1,100 or more	1,000	1,000	1,000	1,000	1,000
1,075	1,000	1,000	1,000	1,000	3,000
1,050	1,000	1,000	1,000	1,000	5,500
1,025	1,000	1,000	1,000	2,000	8,000
1,000	1,000	1,000	1,000	4,500	10,500
975	1,000	1,000	1,000	7,000	13,000
950	1,000	1,000	3,500	9,500	15,500
925	1,000	1,000	6,000	12,000	18,000
900	1,000	2,500	8,500	14,500	20,500
875	1,000	5,000	11,000	17,000	23,000
850	1,000	7,500	13,500	19,500	25,500
825	1,000	10,000	16,000	22,000	26,000
800	1,000	12,500	18,500	24,500	30,500
775	1,000	15,000	21,000	27,000	33,000
750	2,500	17,500	23,500	29,500	35,500
725	5,000	20,000	26,000	32,000	38,000
700	7,500	22,500	28,500	34,500	40,500
675	10,000	25,000	31,000	37,000	43,000
650	12,500	27,500	33,500	39,500	45,500
625	15,000	30,000	36,000	42,000	48,000
600	17,500	32,500	38,500	44,500	50,500
575	20,000	35,000	41,000	47,000	53,000
550	22,500	37,500	43,500	49,500	55,500
525	25,000	40,000	46,000	52,000	58,000
500	27,500	42,500	48,500	54,500	60,500
475	30,000	45,000	51,000	57,000	63,000
450 or less	32,500	47,500	53,500	59,500	65,500

\* Rent includes tenant paid utilities. For rents between those listed, interpolate



**APPENDIX A  
(RESERVED)  
APPENDIX B  
Page 2**

**ADJUSTMENTS:**

**1. Unit Size:**

The Balanced Housing funding charts are based on certain assumptions regarding unit size. These assumptions are:

Studio	500 Sq. Ft.
1 Bedroom	600 Sq. Ft.
2 Bedrooms	750 Sq. Ft.
3 Bedrooms	950 Sq. Ft.
4 Bedrooms	1,150 Sq. Ft.

For units that are smaller than the sizes listed above, subtract \$50.00 for each square foot below the size indicated:

In determining unit size, the Department will consider the net square foot size, that is the area inside the unit. Excluded from the calculation are common halls, stairways, unfinished basements and attics, garages, balconies and porches. The Department may waive all or part of the unit size deduction based on the inclusion of amenities as noted in 5:43-2.4(a)6.

The maximum allowable subsidy for any rental unit receiving a project-based Section 8 certificate from the United States Department of Housing and Urban Development or any equivalent project-based subsidy shall be \$15,000.

**2. Small Projects:**

For rental projects which are not receiving Low Income Housing Tax Credits:

Unit Size	Rent	Number of units in Project*	Add
SRO	\$550 or less	15 or less	\$10,000
SRO	\$550 or less	16 to 25	\$ 5,000
1BR	\$600 or less	15 or less	\$12,500
1BR	\$600 or less	16 to 25	\$ 7,500
2BR	\$650 or less	15 or less	\$15,000
2BR	\$650 or less	16 to 25	\$10,000
3BR	\$700 or less	15 or less	\$17,500
3BR	\$700 or less	16 to 25	\$12,500
4BR	\$750 or less	15 or less	\$20,000
4BR	\$750 or less	16 to 25	\$15,000

\* The total number of units in the project, regardless of the number being considered for Balanced Housing funding.

### 3. Volume Cap Tax Credit Projects

Subject to the limitations listed below, Balanced Housing rental projects, which are also receiving the volume cap tax credit may add the following to the maximum subsidy:

SRO	\$10,000
1BR	\$12,500
2BR	\$15,000
3BR	\$17,500
4BR	\$20,000

In order to qualify for this added subsidy, applicants must demonstrate that the project would be eligible, in accordance with the QAP, for maximum point totals in the following categories: compliance period; social services; unit amenities; and project amenities.

This additional subsidy may not be used in conjunction with a State low-income housing tax credit.

**APPENDIX C**  
**Non Distressed Urban Municipalities - Maximum Subsidy Rental Units**

<b>Rent*</b>	<b>Studio/SRO</b>	<b>1BR</b>	<b>2BR</b>	<b>3BR</b>	<b>4BR</b>
\$1,025 or more	1,000	1,000	1,000		1,000
1000	1,000	1,000	1,000		2,500
975	1000	1000	1,000	1,000	5,000
950	1000	1000	1,000	2,500	7,500
925	1000	1000	1,000	5,000	10,000
900	1000	1,000	2,500	7,500	12,500
875	1000	1,000	5,000	10,000	15,000
850	1000	2,500	7,500	12,500	17,500
825	1000	5,000	10,000	15,000	20,000
800	1000	7,500	12,500	17,500	22,500
775	1000	10,000	15,000	20,000	25,000
750	1,000	12,500	17,500	22,500	27,500
725	1,000	15,000	20,000	25,000	30,000
700	2,500	17,500	22,500	27,500	32,500
675	5,000	20,000	25,000	30,000	35,000
650	7,500	22,500	27,500	32,500	37,500
625	10,000	25,000	30,000	35,000	40,000
600	12,500	27,500	32,500	37,500	42,500
575	15,000	30,000	35,000	40,000	45,000
550	17,500	32,500	37,500	42,500	47,500
525	20,000	35,000	40,000	45,000	50,000
500	22,500	37,500	42,500	47,500	52,000
475	25,000	40,000	45,000	50,000	55,000
450 or less	27,500	42,500	47,500	52,500	57,500

Rent includes tenant paid utilities. For rents between those listed, interpolate.

(Continued)

## APPENDIX C

Page 2

### ADJUSTMENTS:

#### 1. Unit Size:

The Balanced Housing funding charts are based on certain assumptions regarding unit size. These assumptions are:

Studio	500 Sq. Ft.
1 Bedroom	600 Sq. Ft.
2 Bedrooms	750 Sq. Ft.
3 Bedrooms	950 Sq. Ft.
4 Bedrooms	1,150 Sq. Ft.

For units that are smaller than the sizes listed above, subtract \$50.00 for each square foot below the size indicated:

In determining unit size, the Department will consider the net square foot size; that is the area inside the unit. Excluded from the calculation are common halls, stairways, unfinished basements and attics, garages, balconies and porches. The Department may waive all or part of the unit size deduction based on the inclusion of amenities as noted in N.J.A.C. 5:43-2.4(a)6.

The maximum allowable subsidy for any rental unit receiving a project-based Section 8 certificate from the United States Department of Housing and Urban Development or any equivalent project-based subsidy shall be \$15,000.

#### 2. Small Projects:

For rental projects which are not receiving Low Income Housing Tax Credits:

Unit Size	Rent	Number of units in Project*	Add
SRO	\$550 or less	15 or less	\$7,500
SRO	\$550 or less	16 to 25	\$3,750
1BR	\$600 or less	15 or less	\$10,000
1BR	\$600 or less	16 to 25	\$ 5,000
2BR	\$650 or less	15 or less	\$12,500
2BR	\$650 or less	16 to 25	\$ 6,250
3BR	\$700 or less	15 or less	\$15,000
3BR	\$700 or less	16 to 25	\$ 7,500
4BR	\$750 or less	15 or less	\$17,500
4BR	\$750 or less	16 to 25	\$ 8,750

\* The total number of units in the project, regardless of the number being considered for Balanced Housing funding.

### 3. Volume Cap Tax Credit Projects

Subject to the limitations listed below, Balanced Housing rental projects, which are also receiving the volume cap tax credit may add the following to the maximum subsidy:

SRO	\$ 7,500
1BR	\$10,000
2BR	\$12,500
3BR	\$15,000
4BR	\$17,500

In order to qualify for this added subsidy, applicants must demonstrate that the project would be eligible, in accordance with the QAP, for maximum point totals in the following categories: compliance period; social services; unit amenities; and project amenities.

This additional subsidy may not be used in conjunction with a State low income housing tax credit.

## APPENDIX D

### Distressed Urban Municipalities- Maximum Subsidy Homeownership Units

Sales Price*	1BR	2BR	3BR	4BR
More than 110,000	1,000	1,000	1,000	1,000
110,000	1,000	1,000	2,000	10,000
107,500	1,000	1,000	4,500	12,500
105,000	1,000	1,000	7,000	15,000
102,500	1,000	1,000	9,500	17,500
100,000	1,000	1,000	12,000	20,000
97,500	1,000	3,500	14,500	22,500
95,000	1,000	6,000	17,000	25,000
92,500	1,000	8,500	19,500	27,500
90,000	1,000	11,000	22,000	30,000
87,500	1,000	13,500	24,500	32,500
85,000	1,000	16,000	27,000	35,000
82,500	1,000	18,500	29,500	37,500
80,000	1,000	21,000	32,000	40,000
77,500	2,500	23,500	34,500	42,500
75,000	5,000	26,000	37,000	45,000
72,500	7,500	28,500	39,500	47,500
70,000	10,000	31,000	42,000	50,000
67,500	12,500	33,500	44,500	52,500
65,000	15,000	36,000	47,000	55,000
62,500	17,500	38,500	49,500	57,500
60,000	20,000	41,000	52,000	60,000
57,500	22,500	43,500	54,500	62,500
55,000	25,000	46,000	57,000	65,000
52,500	27,500	48,500	59,500	65,000
50,000 or less	30,000	50,000	62,000	65,000

\* For prices in between those listed, interpolate.

## APPENDIX D

Page 2

### ADJUSTMENTS:

The Balanced Housing funding charts are based on certain assumptions regarding unit size. These assumptions are:

Studio	500 Sq. Ft.
1 Bedroom	600 Sq. Ft.
2 Bedrooms	750 Sq. Ft.
3 Bedrooms	950 Sq. Ft.
4 Bedrooms	1,150 Sq. Ft.

For units that are smaller than those listed above, subtract \$50.00 for each square foot below the size indicated.

In determining unit size, the Department will consider the net square foot size; that is the area inside the unit. Excluded from the calculation are common halls, stairways, unfinished basements and attics, garages, balconies and porches. The Department may waive all or a portion of the unit size deduction based on the inclusion of amenities as noted in N.J.A.C. 5:43-2.4(a)6.

**APPENDIX E**  
**Non-Distressed Urban Municipalities-**  
**Maximum Subsidy Homeownership Units**

<b>Sales Price*</b>	<b>1BR</b>	<b>2BR</b>	<b>3BR</b>	<b>4BR</b>
\$100,000 or more	1,000	1,000	1,000	1,000
97,500	1,000	1,000	1,000	2,500
95,000	1,000	1,000	1,000	5,000
92,500	1,000	1,000	2,500	7,500
90,000	1,000	1,000	5,000	10,000
87,500	1,000	2,500	7,500	12,500
85,000	1,000	5,000	10,000	15,000
82500	1,000	7,500	12,500	17,500
80000	1,000	10,000	15,000	20,000
77500	1,000	12,500	17,500	22,500
75000	1,000	15,000	20,000	25,000
72500	2,500	17,500	22,500	27,500
70000	5,000	20,000	25,000	30,000
67500	7,500	22,500	27,500	32,500
65000	10,000	25,000	30,000	35,000
62500	12,500	27,500	32,000	37,500
60000	15,000	30,000	35,000	40,000
57500	17,500	32,500	37,500	42,500
55000	20,000	35,000	40,000	45,000
52500	22,500	37,500	42,500	47,500
\$50,000 or less	25,000	40,000	45,000	50,000

For prices in between those listed, interpolate

(Continued)



## APPENDIX E

Page 2

### ADJUSTMENTS:

#### 1. Unit Size:

The Balanced Housing funding charts are based on certain assumptions regarding unit size. These assumptions are:

Studio	500 Sq. Ft.
1 Bedroom	600 Sq. Ft.
2 Bedrooms	750 Sq. Ft.
3 Bedrooms	950 Sq. Ft.
4 Bedrooms	1,150 Sq. Ft.

For units that are smaller than those listed above, subtract \$50.00 for each square foot below the size indicated.

In determining unit size, the Department will consider the net square foot size; that is the area inside the unit. Excluded from the calculation are common halls, stairways, unfinished basements and attics, garages, balconies and porches. The Department may waive all or a portion of the unit size deduction based on the inclusion of amenities as noted in N.J.A.C. 5:43-2.4(a)6.

## **Appendix G**

### **Energy Efficient Unit / Energy Star**

As defined below and throughout the text of the Balanced Housing Rules, Energy Efficient or/and an Energy Efficient Unit is equivalent to Energy Star or an Energy Star Unit as defined by the DOE/EPA's Energy Star Program.

The Home Energy Rating System (HERS) is a set of technical guidelines for rating the performance of a home's energy usage as described in the National Association of State Energy Officials (NASEO) / Residential Energy Services (RESNET) "Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems" (located at [www.natresnet.org](http://www.natresnet.org)). The purpose is to ensure that accurate and consistent home energy ratings are performed under accredited home energy rating organizations and/or by certified energy raters.

A Home Energy Rating is an indication of a home's energy efficiency based on a consistent set of inspection procedures, operating assumptions, climate data and calculation methods. The home energy rating report includes a numerical HERS score, based on Council of American Building Officials (CABO/MEC) as the standard, a star rating (one to five) indicating the relative energy profile, an estimate of annual energy consumption (therms and/or kWh) and the estimated annual cost of energy. A HERS rating enables a purchaser to assess the relative energy efficiency of a residence. Lenders can use it as a standard to determine whether a home can qualify for an energy-efficient mortgage; and utility companies use it to determine whether a home qualifies a builder to participate in a new construction program and subsequent incentives.

Using a scale of 0 to 100 on the HERS scale, the relative energy efficiency of a given dwelling unit is established by comparing it to the HERS Energy-Efficient Reference Home (EERH), an accepted national standard based on the CABO Model Energy Code. The higher the score the more efficient the home. The HERS EERH scores 80 points. Essentially, one point is awarded or deducted for each five percent change in energy efficiency for the homes thermal envelope, heating, cooling and domestic hot water systems relative to CABO/MEC. A home that uses approximately 30 percent less energy than the EERH scores 86 points and is equivalent to an Energy Star Certified Home. A home with zero purchased energy scores 100.

A certified Home Energy Rater is an individual qualified by education and experience to perform a home energy rating. A certification process has been established by a broad coalition of the home energy rating industry ("RESNET National Rater Training and Certifying Standard"). The process includes rater training, field supervision and testing by experienced trainers and organizations that are accredited as HERS providers.

The Energy Star Program is a partnership between the U.S. Department of Energy, the

U.S. Environmental Protection Agency, product manufacturers, local utilities and retailers. Although Energy Star-labeled products tend to have a higher first cost, they conserve energy, save money on utility bills and help protect the environment, and include, but are not limited to, products such as appliances, lighting fixtures, computers, photocopiers and home electronics, as well as Energy Star Homes.

New Jersey builders, developer, and home buyers acting as their own general contractor should contact their local electric or gas investor owned utility to find out more about their residential new construction program and available services and incentives to assist them in building to the Federal Energy Star standards. It is important to note that a utilities program is subject to change or cancellation without notice and requires continued regulatory approval for implementation.

## **APPENDIX H (RESERVED)**

### **APPENDIX I**

#### **Design Guidelines**

##### **I - Rehabilitation, Reconstruction or Infill Projects**

1. Projects should seek to harmonize and complement, rather than clash with the scale and character of the surrounding block and neighborhood. This may be a selective process, in which the best design features of the block and neighborhood are emulated and echoed, while more generic features are ignored or downplayed.
2. Building design should seek to create visual interest, and draw from the local design vernacular, where appropriate. Façade modulation and articulation are encouraged, where appropriate. Stylistic variety is encouraged, while maintaining a sense of unity through continuity of massing, fenestration, and vertical and horizontal façade elements.
3. Buildings should be designed to be "good neighbors", that is they shall generally reflect the prevailing scale, massing, façade treatments and roof pitches found in the buildings of the surrounding neighborhood. "Foursided" architecture - where façade treatments are extended to side and rear elevations - is encouraged, where appropriate. Blank wall or service area treatment is discouraged for any area visible from the public realm.
4. Rehabilitation and reconstruction projects should generally respect the architectural integrity of the original structure, its materials, roof shape and fenestration.
5. Infill buildings should respect the prevailing front setback from the public right-of-way.
6. Taller buildings are encouraged to acknowledge the height of neighboring structures by echoing important horizontal lines (roof lines, cornice lines, string courses) or by using setbacks, recesses, change of color or changes in building material to differentiate the taller part of the building.
7. Wider buildings are encouraged to acknowledge the width of neighboring structures through vertical façade subdivisions, or bays.
8. Corner buildings deserve special treatment. Façade design should wrap around to address both sides. Corner entrances are encouraged in larger buildings. Increased building height should be considered at corners.
9. Projects should incorporate or reflect, to the extent reasonable, the materials used in exterior cladding of adjacent or facing buildings. Materials that are durable, require moderate maintenance, and age gracefully - such as brick, wood and stone - are encouraged.
10. Building exteriors should generally follow the tripartite model, with a base, middle and crown (roof). Modulated roofs are preferred, where appropriate. Façade modulation, and horizontal and vertical subdivisions that help relate a building to the human scale are encouraged.
11. Building facades and entrances should face streets or attractive public spaces, and not parking lots. Features such as stoops, porches and balconies -- that encourage indoor-outdoor interaction -- are encouraged. Primary entrances shall be clearly marked and framed architecturally.
12. Windows with square or vertical proportions, coordinated with the articulation of

- bays and balconies are encouraged. Openings framed with reveal and not flush with the exterior finish offer greater expression and are encouraged.
13. Safe, attractive and comfortable pedestrian access to the building(s) and from the buildings to the surrounding neighborhood is encouraged.
  14. HVAC equipment, exhaust pipes, elevator housing and other rooftop mechanical equipment should be screened from public view.
  15. Utility boxes and other mechanical fixtures placed on the ground, including HVAC, should be adequately screened from the public realm. Screening and landscaping should not compromise service access to this equipment. Loading docks should also be screened. Garbage and recycling facilities in multi-family structures should be screened and preferably enclosed.
  16. Parking solutions are encouraged in the rear, to the side or under the buildings and should be well screened from the public realm. Individual garage doors facing the street are not encouraged. Alley access is preferred, where possible and appropriate. In buildings with front-loaded attached garages, garage entrances should be recessed and receive other appropriate architectural treatments, to minimize the negative visual impact on the streetscape.
  17. Foundation plantings and general landscaping should complement and accent, without obscuring the building or interfering with pedestrian circulation and the functionality of public space.
  18. In inclusionary projects - projects containing both a market rate and an affordable component -- the exterior treatment of buildings containing affordable housing units shall not be distinguishable from the exterior treatment of buildings containing only market rate units. Similarly, the streetscape and landscape treatment, as well as the storage and parking arrangements shall be identical for both affordable and market rate units.
  19. Public or semi-public open space - such as public plazas, courtyards or mews - are encouraged in larger projects. These spaces should be designed and landscaped to provide a high-quality, functional and secure environment for the residents and broader community. These spaces should provide one or more focal points for the project. Pedestrian scale lighting, street furniture, shade trees, water features and public art are encouraged.
  20. Architectural style is not controlled by these guidelines.
  21. Exceptions or variations to the above guidelines will be considered, on a case by case basis, based on the merits of each project's specific circumstances.
  22. These guidelines shall be preempted, in whole or in part, by relevant local design guidelines or standards pursuant to municipal land development ordinances and/or historic preservation districts, where applicable.

## II - Other Projects

1. The above guidelines, when relevant, shall also be applied to projects other than rehabilitation, reconstruction or infill projects.

## APPENDIX J

### Distressed Urban Municipalities

MUNICIPALITY	COUNTY
Asbury Park City	Monmouth
Bayonne City	Hudson
Bridgeton City	Cumberland
Camden City	Camden
East Orange City	Essex
Elizabeth City	Union
Gloucester City	Camden
Hoboken City	Hudson
Irvington Township	Essex
Jersey City	Hudson
Long Branch City	Monmouth
Millville City	Cumberland
Mount Holly Township	Burlington
New Brunswick City	Middlesex
Newark City	Essex
North Bergen Township	Hudson
Orange City Township	Essex
Passaic City	Passaic
Paterson City	Passaic
Penns Grove Boro	Salem
Perth Amboy City	Middlesex
Phillipsburg Town	Warren
Plainfield City	Union
Pleasantville City	Salem
Salem City	Salem
Trenton City	Mercer
Union City	Hudson
Vineland City	Cumberland
West New York Town	Hudson

**NJ Department of Community Affairs  
Division of Housing and Community Resources  
Housing Affordability Services**

**FEE SCHEDULE - EXHIBIT A  
Approved for Use as of 11/22/93**

Initial Contract Fee (Sales & Rental) Per Unoccupied Unit  
To be charged to Developer or Municipality-----\$500

Initial Contract Fee (Sales & Rental) Per Occupied Unit  
To be charged to Developer or Municipality-----\$250

Resale Occupancy per Unit  
To be charged to Seller at closing-----\$500

Rental Occupancy per Unit  
To be charged to Property Owner/Landlord at leasing-----\$200

The Fee Schedule will be reassessed annually and revised as needed.

Initial contract fees for sales and rentals will be billed and collected on signing of an agreement between a Municipality or a Developer and the NJ Housing and Mortgage Finance Agency or the Neighborhood Preservation Balanced Housing Program. Municipalities/Developers shall have an option of paying for their entire unit inventory at the prevailing fee at the time of initial contract or negotiating an installment plan. If payment is delayed, Municipalities or Developers shall be charged the initial contract fee in effect at the time of payment.

The resale fee in effect at the time of signing a Notice of Intent to Sell shall prevail. If the seller requests a new price calculation after the original Notice, a new Notice will be required and shall include any fee schedule revision that may have been subsequently authorized. The re-rental fee in effect at the time of releasing shall prevail.

Subsequent re-occupancy fees will be billed and collected at time of sales closing or rental lease agreement. The Affordable Housing Management Service may, at its discretion, require payment in advance of providing re-occupancy services.

This fee schedule has been approved by the State Treasurer pursuant to N.J.S.A. 52:27D effective November 22, 1993.